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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,823	12/11/2003	Kelly Cameron	51318/RJP/B600	2171
23363	7590	09/06/2005	EXAMINER	
CHRISTIE, PARKER & HALE, LLP			TORRES, JOSEPH D	
PO BOX 7068				
PASADENA, CA 91109-7068			ART UNIT	PAPER NUMBER
			2133	

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/733,823	CAMERON, KELLY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph D. Torres	2133	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 05 August 2005.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 2-7 and 9-17 is/are pending in the application.

4a) Of the above claim(s) 2-6 and 13-17 is/are withdrawn from consideration.

5) Claim(s) 7, 11 and 12 is/are allowed.

6) Claim(s) 9 is/are rejected.

7) Claim(s) 10 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 11 December 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Claims 7-12 in the reply filed on 06/30/2005 is acknowledged.  
  
Claims 2-6 and 13-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without traverse** in the reply filed on 06/30/2005.

### ***Claim Objections***

2. In view of the amendment filed 08/05/2005, the Examiner withdraws all objections to the claims.
3. Claim 10 is objected to because of the following informalities: claim 10 depends from a cancelled claim. Appropriate correction is required.

### ***Response to Arguments***

4. Applicant's arguments regarding 112 issues filed 08/05/2005 have been fully considered but they are not persuasive.

The Applicant contends, "However, one reasonably skilled in the art will appreciate that in a plurality of programming languages, often referred to as assignment-based languages, variables are storage devices".

The Examiner asserts that while that may be true, variables still have separate use as abstract mathematical representations and while ordinarily the Applicant's remarks would suffice to clarify the issues surrounding the Applicant's usage of the term variable, because claim 7 recites, "a plurality of discrepancy value storage devices being adapted to store discrepancy values", using the term "discrepancy variable" to mean discrepancy value storage device creates confusion. Are the discrepancy variables in claim 9 the same as the "discrepancy value storage devices" in claim 7? If so, why is it necessary to use different descriptive language for the terms? If not, how do the "discrepancy value storage devices" in claim 7 distinguish themselves from the discrepancy variables in claim 9?

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

See the Non-Final Action filed 07/14/2005 for detailed action of prior rejections.

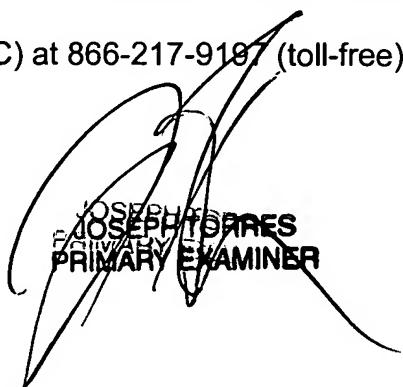
***Allowable Subject Matter***

6. Claims 7, 11 and 12 are allowed.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Torres whose telephone number is (571) 272-3829. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JOSEPH D. TORRES  
PRIMARY EXAMINER

Joseph D. Torres, PhD  
Primary Examiner  
Art Unit 2133